

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>SUMMIT CARBON SOLUTIONS, LLC,</p> <p>Petitioner,</p> <p>v.</p> <p>IOWA UTILITIES BOARD, A DIVISION OF THE DEPARTMENT OF COMMERCE, STATE OF IOWA,</p> <p>Respondent,</p> <p>And</p> <p>SIERRA CLUB IOWA CHAPTER and OFFICE OF CONSUMER ADVOCATE,</p> <p>Intervenors.</p>	<p>Case No. CVCV062900</p> <p>RESPONSE TO SIERRA CLUB'S STATEMENT OF UNCONTESTED FACTS</p>
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Summit Carbon Solution, LLC (“Summit Carbon”) pursuant to Iowa Rule of Civil Procedure 1.981, hereby responds to the Sierra Club Iowa Chapter (“Sierra Club”)’s Statement of Uncontested Facts, as follows:

1. Summit Carbon Solutions submitted to the Iowa Utilities Board (IUB) a list of landowners who may be impacted by the construction and operation of a carbon dioxide pipeline Summit proposed to construct.

RESPONSE: Summit Carbon admits that it voluntarily submitted a list of names and mailing addresses to the IUB that was used to mail notices of county informational meetings regarding the Summit Carbon project. Any other allegations in Statement 1 are contested.

2. The Court herein issued an Order granting a Temporary Injunction on February 11, 2022, in which the Court identified that only factual issue for trial was whether the IUB has a procedure requiring landowner lists to be provided to the IUB.

RESPONSE: Summit Carbon admits that the Court issued an Order granting a Temporary Injunction on February 11, 2022. Summit Carbon states that the Order speaks for itself, and its contents are a legal conclusion. Summit Carbon further states that whether IUB has a procedure currently requiring landowner lists to be provided incorrectly states the issue; the test under Iowa Code §22.7(18) is whether the information was provided voluntarily *at the time it was actually provided*. Summit Carbon will agree that is the only outstanding issue in the case.

3. The IUB submitted Answers to Interrogatories confirming that the IUB has had a routine procedure at least since 2019 for applicants for permits from the IUB to submit landowner lists to the IUB.

RESPONSE: This statement is contested. As is shown in Summit Carbon's Statement of Disputed Facts Precluding Summary Judgment, there is nothing routine at all about whether and at what stage of a proceeding the IUB requested or required landowner lists. Sierra Club also improperly blurs together all types of landowner lists; this case involves a very specific list – the initial mailing list for purposes of the informational meetings that “kickoff” the process. Finally, whether requests for constitute a “procedure” is a legal conclusion, not a statement of fact.

4. The IUB issued an Order on December 16, 2021, stating that the IUB requires pipeline companies to file a landowner list for each county where the pipeline is proposed to be located.

RESPONSE: Summit Carbon admits that the IUB issued an Order on December 16, 2021, but states that the Order speaks for itself and its contents represent legal conclusions to which no factual response is required. Summit Carbon affirmatively states that Sierra Club is taking the Order out of context, which would properly include other related orders in the same dockets, and further states that it is incorrect that the IUB required companies to file a “landowner list.” Finally, Summit Carbon states that the December 16, 2021 Order is irrelevant to the issue before the Court: what the Board ordered 4 months after Summit Carbon voluntarily provided its mailing lists cannot retroactively change the characterization of whether such submission was voluntary or required *at the time the lists were provided*.

Respectfully submitted this 12th day of May, 2022

By: /s/ Brant M. Leonard

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**ATTORNEYS FOR SUMMIT CARBON
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CERTIFICATE OF SERVICE

The undersigned certifies that on the 12th of May, 2022, the foregoing document was electronically filed with the Clerk of Court using the EDMS system which will send a notice of electronic filing to all counsel of record registered with the EDMS system.

/s/ Brant M. Leonard